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Employment Update: Sonoma County's Expanded Stage 2: There's an app for that . . . *Posted May 26, 2020*

For those of you with employees in Sonoma County you will need to pay close attention to how Sonoma County's May 22, 2020 Order No. C19-09 ("Order"), allowing certain businesses to open and activities to commence under a variance to Stage 2 of California's Roadmap will play out. We are hoping the County will provide more guidance over the next week.

Employee Self-Check App Requirement

As of now, the Order provides that by June 1, 2020, employers will need to require employees to conduct self-check's before reporting to work using an app that will report data to the County. The County has provided a free app and states that an alternative system can be used as long as it meets the same purpose of employee and employer assessments and as long as it allows the electronic reporting of equivalent data to be reported to the County in aggregate form. The app is currently available for employees and there is going to be an additional, employer component of the app added in the coming week.

Most companies have been conducting some form of self-check before employees report to work, but this has not been done in a format designed to report data to the County. Leaving aside privacy concerns, employers will face a host of uncertainty with how to implement this from a wage and hour perspective. Is the time compensable? Does the app use employee data? Do employers need to pay for the cell phone use? Is this for the County's benefit or the employer's?

As we sift through the unknowns this week we will strive to update you on how best to implement this new Sonoma County requirement. As of now, no other local county has such a requirement. Here is a link to the Order: <https://socoemergency.org/amendment-no-3-to-health-order-no-c19-09/>

Summary of the Employer-Related Components of the Order

In addition to expanding allowable businesses to include restaurants, the Order also allows food facilities, breweries, bars, pubs, craft distilleries, wineries, and tasting rooms to operate if they offer sit-down meals outdoors, including providing the meals through a contract with an outside vendor (see below for more details on the requirements to operate).

The Order requires ALL Sonoma County employers to do the following:

1. Comply with local and state orders and guidance, including preparing, posting and implementing a Social Distancing Protocol at all facilities operating in the County.
 - a. Social Distancing Protocol Form is here: https://socoemergency.org/wp-content/uploads/2020/05/Appendix-A_05-01-2020extended.pdf
 - b. County guidance by industry can be found here: <http://sonomaedb.org/Business-Assistance/Coronavirus/Business-Management-Plans/>
 - c. State guidance by industry can be found here: <https://covid19.ca.gov/industry-guidance/>
2. Require all employees to perform a self-check for COVID-19 symptoms and temperature check before reporting to work site or other assignment away from their residence.

3. Use the free Sonoma County SoCo COVID-19 Check Application with an app device or through the SoCoEmergency website. Links for the app are here:
 - a. Apple IOS version is on the Apple App store: <https://apps.apple.com/us/app/soco-covid-19-check/id1511037042>
 - b. Android version is on Google Play Store: <https://play.google.com/store/apps/details?id=com.sococheck>

This expanded list of businesses and activities are in addition to those businesses and activities already allowed under Sonoma County's Orders. For a list of all Sonoma County's Orders you can go here: <https://socoemergency.org/emergency/novel-coronavirus/health-orders/>

Expanded Businesses - Requirements to Operate:

Restaurants:

- Restaurants and food facilities may provide outdoor sit-down meals.
- Outdoor seating arrangements shall limit the number of patrons at a single table to no more than ten (10) members of a single household or living unit.
- People in the same party seated at the same table do not have to be six feet apart.
- However, all tables need to be separated by six-feet.
- All members of the party must be present before seating and hosts must bring the entire party to the table at one time.
- These businesses should continue to encourage drive-thru, delivery, or carry out whenever possible.
- Entertainment events are prohibited.
- These businesses are subject to existing local and state orders and guidance as indicated in the Order.

Brewpubs, breweries, bars, pubs, craft distilleries, wineries, and tasting rooms:

Curbside pick-up, delivery or shipping is allowed if otherwise closed to the public.

Open to the public only if:

- They offer sit-down outdoor meals, including outdoor meals provided by contract with a vendor.
- Outdoor seating arrangements shall limit the number of patrons at a single table to no more than ten (10) members of a single household or living unit.
- People in the same party seated at the same table do not have to be six feet apart.
- However, all tables need to be separated by six-feet.
- All members of the party must be present before seating and hosts must bring the entire party to the table at one time.
- Alcohol can only be served in the same transaction as a meal.
- Alcohol only retail sales may only occur after the meal, and only by curbside pick-up, delivery, or shipping.
- Entertainment events are prohibited.
- These businesses are subject to existing local and state orders and guidance as indicated in the Order.

Employee-Related Components of the Order:

Can employees at high risk of severe illness from COVID-19 work? Yes, but see below.

- People at high risk of severe illness or death from COVID-19 and people who are sick are strongly encouraged to stay in their residence to the extent possible.
- These people should make a reasonable effort to avoid leaving home by utilizing delivery services, telecommunications, or other means available.
- However, nothing prevents a person at high risk of severe illness from leaving home for the reasons otherwise allowed under this Order, if the Essential Activity, Essential Business, or other permissible conduct cannot reasonably be accomplished at their place of residence. This means, if an employee wants to work and the job cannot be done remotely, the employer should allow the employee to work.

For purposes of this Order, “people at high risk of severe illness” from COVID-19 are people who meet the CDC definition of higher risk, which include:

- People aged 65 years and older.
- People who live in a nursing home or long-term care facility.
- Other high-risk conditions could include:
 - People with chronic lung disease or moderate to severe asthma.
 - People who have serious heart conditions.
 - People who are immunocompromised including cancer treatment.
 - People of any age with severe obesity (body mass index [BMI] >40) or certain underlying medical conditions, particularly if not well controlled, such as those with diabetes, renal failure, or liver disease might also be at risk.